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6                   UNITED STATES DISTRICT COURT  
7                   WESTERN DISTRICT OF WASHINGTON  
8                   AT SEATTLE

9                   AZIZUDDIN SALAHUD-DIN,

10                  Plaintiff,

Case No. C20-210-MLP

11                  v.

ORDER

12                  CERTAIN UNKNOWN CLERKS  
13                  EMPLOYED BY KING COUNTY  
14                  CLERK'S OFFICE, *et al.*,

Defendants.

15                   I.        INTRODUCTION

16                  This matter is before the Court on Defendants' motion for judgment on the pleadings  
17                  pursuant to Federal Rule of Civil Procedure 12(c). (Mot. (Dkt. # 11).) Plaintiff did not submit a  
18                  response to Defendants' motion but submitted a motion for default judgment. (Dkt. # 13.)  
19                  Having considered Defendants' submissions, the balance of the record, and the governing law,  
20                  the Court orders that the Defendants' motion is GRANTED.

21                   II.      BACKGROUND

22                  Plaintiff, proceeding *pro se*, submitted his § 1983 complaint against Defendants "Certain  
23                  Unknown Clerks Employed by King County Clerk's Office" in King County Superior Court.

1 (Dkt. # 3-1.) Plaintiff subsequently filed an amended pleading adding Defendant David Roberts.

2 (Dkt. # 1-1.) Defendants removed this matter to the United States District Court in the Western  
3 District of Washington on February 11, 2020 and submitted an answer on February 13, 2020.

4 (Dkt. ## 1, 6.) Defendants submitted the instant motion on May 13, 2020. (Dkt. # 11.)

5 Plaintiff's initial complaint alleges that Defendants Certain Unknown Clerks Employed  
6 by King County Clerk's Office filed a 2008 criminal judgment and sentence against him under  
7 the name Jerome Steven Talley, his birth name, rather than his current name Azizuddin Salahud-  
8 Din. (Dkt. # 3-1 at 2-4.) Plaintiff also alleged his constitutional right to a speedy sentencing was  
9 violated. (*Id.* at 3.) Plaintiff's amended complaint alleges Defendant Roberts filed the jury  
10 verdict form in the above-mentioned criminal proceeding. (Dkt. # 1-1 at 2.)

11 Certified records from King County Superior Court show Plaintiff was charged as Jerome  
12 Talley, AKA Azizuddin Salahud-Din, with a criminal offense in 2007. (Kanner Decl. (Dkt. #  
13 12), Ex. A.) After a trial and several continuances of sentencing, Plaintiff was sentenced on  
14 December 10, 2008. (*Id.*, Exs. B-F.) For the reasons discussed below, the Court finds this action  
15 should be dismissed.

### 16 III. DISCUSSION

#### 17 A. Rule 12(c)

18 Under Federal Rule of Civil Procedure 12(c), a party may move for judgment on the  
19 pleadings after the pleadings are closed. *See Fed. R. Civ. P. 12(c).* A court "must accept all  
20 factual allegations in the complaint as true and construe them in the light most favorable to the  
21 non-moving party." *Fleming v. Pickard*, 581 F.3d 922, 925 (9th Cir. 2009) (citation omitted); *see*  
22 *also Yakima Valley Mem'l Hosp. v. Wash. State Dep't of Health*, 654 F.3d 919, 925 (9th Cir.  
23 2011) (explaining that the court "assume[s] the facts alleged in the complaint are true").

1 “Judgment on the pleadings is properly granted when there is no issue of material fact in dispute,  
 2 and the moving party is entitled to judgment as a matter of law.” *Id.*; see *Lyon v. Chase Bank*  
 3 USA, N.A., 656 F.3d 877, 883 (9th Cir. 2011).

4           **B. Statute of Limitations**

5           Defendants argue this matter should be dismissed because the statute of limitations period  
 6 has expired. (Mot. at 3.) Federal courts borrow statutes of limitation for § 1983 claims from state  
 7 law, specifically the state’s “general or residual statute for personal injury actions.” *Owens v.*  
 8 *Okure*, 488 U.S. 235, 250 (1989). In the state of Washington, RCW 4.16.080(2) provides a three-  
 9 year limitations period. *Bagley v. CMC Real Estate Corp.*, 923 F.2d 758, 760 (9th Cir. 1991).  
 10 Because Plaintiff’s complaint raises claims regarding a 2008 judgment and sentence, the Court  
 11 finds Plaintiff’s action should be dismissed as barred by the statute of limitations.

12           **C. Failure to State a Claim**

13           Defendants also argue Plaintiff failed to state any plausible cause of action against them.  
 14 (Mot. at 4.) Federal Rules of Civil Procedure 8(a) provides that in order for a pleading to state a  
 15 claim for relief it must contain a short and plain statement of the grounds for the court’s  
 16 jurisdiction, a short and plain statement of the claim showing that the pleader is entitled to relief,  
 17 and a demand for the relief sought. The statement of the claim must be sufficient to “give the  
 18 defendant fair notice of what the plaintiff’s claim is and the grounds upon which it rests.” *Conley*  
 19 *v. Gibson*, 355 U.S. 41, 47 (1957). The factual allegations of a complaint must be “enough to  
 20 raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544,  
 21 555 (2007). In addition, a complaint must allege facts to state a claim for relief that is plausible  
 22 on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

1       In order to state a claim for relief under § 1983, a plaintiff must show (1) that he suffered  
2 a violation of rights protected by the Constitution or created by federal statute, and (2) that the  
3 violation was proximately caused by a person acting under color of state law. *See Crumpton v.*  
4 *Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). To satisfy the second prong, a plaintiff must allege  
5 facts showing how individually named defendants caused, or personally participated in causing,  
6 the harm alleged in the complaint. *See Arnold v. IBM*, 637 F.2d 1350, 1355 (9th Cir. 1981).

7       Defendants argue Plaintiff's claims should be dismissed because court clerks are entitled  
8 to quasi-judicial immunity. (Mot. at 4.) "Judges are immune from suit arising out of their judicial  
9 acts, without regard to the motives with which their judicial acts are performed, and  
10 notwithstanding such acts may have been performed in excess of jurisdiction, provided there was  
11 not a clear absence of all jurisdiction over the subject matter." *Sires v. Cle*, 320 F.2d 877, 879  
12 (9th Cir. 1963); *see also Stump v. Sparkman*, 435 U.S. 349, 356–57 (1978) A similar immunity  
13 extends to other government officers whose duties are related to the judicial process. *See Mullis*  
14 *v. U.S. Bankr. Court for Dist. of Nev.*, 828 F.2d 1385, 1390 (9th Cir. 1987) (explaining that the  
15 clerk of court and deputy clerks qualify for quasi-judicial immunity unless acts were done in the  
16 clear absence of all jurisdiction); *Agnew v. Moody*, 330 F.2d 868, 870 (9th Cir. 1964) (duties of  
17 clerks, bailiffs, and court reporters all relate to the judicial process). Therefore, allegations where  
18 judicial officers are carrying out duties related to the judicial process, such as entering judgments  
19 and sentences, fall within the purview of judicial or quasi-judicial immunity. Because the only  
20 allegations against Defendants are that they filed pleadings in his criminal matter, a function they  
21 performed as part of their employment, the Court finds Plaintiff has failed to articulate a legal  
22 basis for his claims.

1       In addition, Plaintiff has failed to state a plausible cause of action against Defendants  
2 regarding his assertion that he was denied the right to a speedy sentencing. Plaintiff consented to  
3 waive speedy sentencing on three occasions. (Kanner Decl., Exs. C-E.) In his last waiver,  
4 Plaintiff agreed to extend his right to be sentenced until December 31, 2008 and records show he  
5 was sentenced before that date. (*Id.*, Exs. E, F.) Plaintiff has not alleged that the waivers are in  
6 any way invalid. Accordingly, Plaintiff has failed to state a plausible claim.

7           **D.     *Heck v. Humphrey, 512 U.S. 477 (1994)***

8       Defendants lastly argue Plaintiff's action must be dismissed because his claims are barred  
9 by *Heck v. Humphrey*, 512 U.S. 477 (1994). (Mot. at 5.) In *Heck*, the United States Supreme  
10 Court held that a § 1983 claim that calls into question the lawfulness of a plaintiff's conviction or  
11 confinement does not accrue "unless and until the conviction or sentence is reversed, expunged,  
12 invalidated, or impugned by the grant of a writ of habeas corpus." *Heck*, 513 U.S. at 489.

13       Here, Plaintiff's claims arise from his criminal judgment and sentence and he has not  
14 demonstrated that either have been reversed, expunged, invalidated, or impugned. Accordingly,  
15 under *Heck*, Plaintiff's § 1983 claims is not cognizable and this action must be dismissed.

16           **E.     Request for Default**

17       As noted above, Plaintiff submitted a motion for default judgment. (Dkt. # 13.) Plaintiff  
18 appears to assert that Defendants have failed to plead or defend themselves in this action, and  
19 that they have failed to substantially comply with notice of appearance requirements. (*Id.* at 2.)  
20 The Court finds Defendants have properly made appearances in this matter and adequately  
21 defended themselves through both their answer and motion to dismiss. Although Defendants  
22 have not yet had the opportunity to respond to Plaintiff's default motion, the Court finds the  
23 motion moot given that this action is being dismissed.

1                                          **IV. CONCLUSION**

2                                          For the foregoing reasons, Defendants' motion (dkt. # 11) is GRANTED and Plaintiff's  
3 complaint is dismissed with prejudice. Defendant's motion for default (dkt. # 13) is DENIED.

4 The Court is directed to send a copy of this Order to the parties.

5                                          Dated this 7th day of July, 2020.

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8                                          MICHELLE L. PETERSON  
9                                          United States Magistrate Judge